

**AGREEMENT FOR INMATE CONFINEMENT
BETWEEN THE INCORPORATED COUNTY OF LOS ALAMOS
AND CITY OF ESPAÑOLA
AGREEMENT NO. AGR11-3758**

THIS AGREEMENT, made and entered into this 11th day of February, 2011 by and between the City of Española, New Mexico, hereinafter referred to as "Española" and the Incorporated County of Los Alamos, hereinafter referred to as "Los Alamos County."

WHEREAS, Española is in need of a facility for the incarceration, care, and maintenance of persons in police custody, including but not limited to those charged with or arrested for violation of Española ordinances or State law, arrested by Española police, arrested by other law enforcement agencies within Española city limits or sentenced to confinement in the Española jail; and

WHEREAS, Los Alamos County is the owner of the Los Alamos County Adult Detention Facility ("LACADF") which has, from time to time, vacant adult bed space, and Los Alamos County is willing to incarcerate Española inmates as circumstances permit.

NOW, THEREFORE, IT IS MUTUALLY AGREED by the parties as follows:

- 1. PURPOSE.** The purpose of this Agreement is to establish terms and conditions under which Los Alamos County will accept and detain, on a space available basis, Española inmates which may be delivered to the LACADF, from time to time, for incarnation.
- 2. COMPENSATION. Per Diem.** Española shall pay to Los Alamos County the sum of EIGHTY-FIVE DOLLARS (\$85.00) per full or partial calendar day for each Española inmate confined at LACADF.
- 3. BILLINGS.** Los Alamos County shall bill Española on a monthly basis and provide a detailed statement containing the names, booking numbers, dates of incarcerations, arresting agency, cost per stay, total number of days billed, and total costs for said month. Española will pay the bills within thirty (30) days after receipt. If a bill is not paid by the forty-fifth (45th) day following receipt, late payment charges shall accrue and be owing to Los Alamos County of the unpaid balance at the rate of 1.5% per month.
- 4. INMATE APPROVAL AND CONDITIONS.** The Los Alamos County Detention Supervisor will have the right to disapprove the housing of any Española inmate in the LACADF. Inmates detoxing from Alcohol or Drugs of any kind shall not be considered for admittance to the LACADF. No one (1) Española inmate shall remain in the LACADF for a period of more than five (5) consecutive days. Available bed space in the LACADF will be a factor determining approval for admittance. If the Detention Supervisor rejects any Española inmate for confinement, the Detention Supervisor or his designee will promptly provide a written justification to Española upon request.

5. TRANSPORTATION. Española shall be responsible for all transportation of its inmates to and from LACADF for all purposes, except that Los Alamos County shall provide transportation and security in a medical emergency and shall bill Española accordingly at the then current rate as set forth in Paragraph 7 below.

6. INMATE POSSESSIONS. Española shall be responsible for the proper storage and safekeeping of all inmate personal property which Española removes from the inmate or receives from the transporting officer at the time of arrival at the LACADF. Los Alamos County shall not be responsible for any items which are not delivered with the inmate.

7. MEDICAL CARE.

A. Routine on Site Care. Los Alamos County shall provide routine on-site medical, dental and mental health care for inmates within the LACADF. The costs of such on-site care other than pharmaceutical costs shall be considered usual costs incidental to the operation of the LACADF.

B. Prescription Pharmaceuticals. Española is responsible for and will reimburse Los Alamos County for any prescription pharmaceutical costs incurred by Española inmates.

C. Off Site Care. Los Alamos County shall make arrangements with specialists or hospitals for the treatment of those Española inmates with health care problems that may extend beyond the services provided on-site but in no event will Los Alamos County be responsible for charges incurred by Española inmates for off-site care. Española shall be responsible for the cost of providing security on behalf of Española during a hospital confinement, which shall be at the rate of TWENTY DOLLARS (\$20.00) per officer, per hour. Española shall be solely responsible for providing such security for any period of hospital confinement exceeding twenty-four (24) hours.

8. TERM. The term of this Agreement shall begin upon execution and shall continue until June 30, 2012, unless sooner terminated, as provided herein.

9. TERMINATION. This Agreement may be terminated by either of the parties at any time by giving written notice to the other party at least sixty (60) days prior to the intended date of termination. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. No termination on behalf of Española shall be effective until such time as all Española inmates have been removed from the LACADF. Either of the parties may initiate negotiations of this Agreement by providing written notice at least sixty (60) days prior to the end of the fiscal year. In the event this Agreement terminates or is terminated and not renewed, Los Alamos County shall have no obligation to accept Española inmates.

10. FUNDING. This Agreement shall terminate on the first day of any Española fiscal year for which funds to pay compensation hereunder are not appropriated by the Española governing body. Española shall make reasonable efforts to give Los Alamos County at least ninety (90) days advance notice that funds have not been or are not expected to be appropriated for that purpose.

11. OPERATIONS, STATUS OF COUNTY.

A. Los Alamos County, and its agents and employees, acting pursuant to their statutory and inherent powers as an incorporated county of the State of New Mexico in the performance of their obligation under this agreement are not employees of Española. Los Alamos County and its agents and employees, shall not accrue leave, retirement, insurance, bonding, use of Española vehicles, or any other benefits afforded to employees of Española as a result of this Agreement.

B. Constitutional rights of persons confined by Los Alamos County or its agents, under this Agreement shall not be abridged by Los Alamos County or its agents.

12. NO THIRD PARTY BENEFICIARIES. This agreement does not create, and by entering into this Agreement, the parties do not intend to create any right, title, or interest in or for the benefit of any person other than Los Alamos County and Española. No person shall claim any right, title, or interest under this Agreement, or seek to enforce this Agreement as a third party beneficiary of this Agreement or otherwise.

13. LIABILITY. Each party shall be responsible for fiscal or other sanctions occasioned as a result of its own violation of any requirements applicable to performing under this Agreement. Nothing herein is intended to nor shall be deemed to waive the rights of the parties hereto to claim the privileges and immunities granted to them under §11-1-6 NMSA 1978 or under the Tort Claims Act or any other applicable law or ordinance.

14. WORKER'S COMPENSATION. Los Alamos County shall maintain such worker's compensation insurance or self-insurance as is required by law.

15. SUBCONTRACTING. Los Alamos County may subcontract the services to be performed under this Agreement.

16. RECORDS AND AUDIT.

A. **COUNTY INFORMATION.** Los Alamos County shall maintain detailed time records, which indicate the date, time and nature of services rendered and shall endeavor to ensure that the billings accurately correspond to the detailed time records. These records shall be subject to inspection by Española, the Department of Finance and Administration and State Auditor.

B. **ESPAÑOLA INFORMATION.** Española shall provide to Los Alamos County all court and/or arrest documents necessary to **justify** Española inmates' incarceration

and shall furnish criminal histories on Española inmates in custody to Los Alamos County as requested. Española shall also furnish any other records to Los Alamos County which it may have access to, so long as Los Alamos County has a legitimate need and there is no law prohibiting distribution of such records.

- 17. AMENDMENTS.** This Agreement shall not be altered, changed, or amended except by instrument in writing executed by the parties.
- 18. SCOPE OF AGREEMENT.** This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such agreements, covenants and understandings have been merged into this written Agreement. No prior agreement, covenant or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.
- 19. APPLICABLE LAW.** This Agreement shall be governed by the laws of the State of New Mexico.
- 20. REPRESENTATIONS AND WARRANTIES.** Los Alamos County hereby represents that it is in compliance with the Americans with Disabilities Act.
- 21. NOTICES.** All notices shall be sent by certified mail as follows:

To Los Alamos: Los Alamos County Administrator
Incorporated County of Los Alamos
113 Central Park Square
Los Alamos, New Mexico 87544

With Copy to: County Attorney
Incorporated County of Los Alamos
475 20th Street, Suite D
Los Alamos, New Mexico 87544

To Española: Ted Garcia, Detention Director
City of Española
413 North Paseo de Oñate
Española, New Mexico 87532

- 22. NON-DISCRIMINATION.** Los Alamos County is an Equal Opportunity Employer.
- 23. ACCESS BY ESPAÑOLA.** Española, through the Mayor or designee or the Española Police Department, has the right to inspect the conditions under which Española inmates are detained at the LACADF. Access at the Detention Facility shall be coordinated with the Los Alamos Jail Administrator or their designee.

24. SEVERABILITY. If any part of this Agreement is determined to be invalid or unenforceable by a court, the remainder of this Agreement shall not be affected and will remain valid and enforceable to the highest extent of the law.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

ATTEST

Janet Foster

JANET FOSTER
COUNTY CLERK



INCORPORATED COUNTY OF
LOS ALAMOS

BY: *Randy M. Autio* 2.14.11
RANDY M. AUTIO DATE
ACTING COUNTY ADMINISTRATOR

APPROVED AS TO FORM:

C. Ben James
OFFICE OF THE COUNTY ATTORNEY

CITY OF ESPAÑOLA, NEW MEXICO

BY: *James V. Lujan* 3-30-11
JAMES LUJAN DATE
CITY MANAGER

Frank Coppler
FRANK COPPLER
CITY ATTORNEY

CITY OF ESPAÑOLA, NEW MEXICO

BY: *Leo Montoya* 4/1/11
LEO MONTOYA DATE
PUBLIC SAFETY CHIEF